

*Via Electronic Comment Filing System*

July 17, 2011

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: *Notice of ex parte meetings*  
*Petition for Declaratory Ruling filed by Securus Technologies, Inc.*  
*WCB Docket No. 09-144*

Dear Ms. Dortch:

By this letter, and pursuant to Sections 1.1206(a)(3) and (b)(1)-(2) of the rules of the Federal Communications Commission (“FCC” or “Commission”),<sup>1</sup> Millicorp provides notice of certain July 17, 2012 meetings between its representatives and representatives of the Commission. Specifically, the following representatives of Millicorp participated in four meetings with Commission staff: Timothy Meade, President of Millicorp; Duane Dyar, Vice President of Operations for Millicorp; and the undersigned (collectively, “Millicorp”). Millicorp separately met with:

- Angela Kronenberg, Wireline Legal Advisor for Commissioner Mignon Clyburn; and
- Pamela Arluk of the Wireline Competition Bureau and Diane Griffin Holland, Marcus Maher, Raelynn Remy, and Sean Lev of the Office of General Counsel.

At each meeting, Millicorp provided the Commission attendees with a copy of the attached Powerpoint presentation and discussed the contents thereof. As set forth in the presentation, Millicorp explained that its operations are substantially similar to the operations of other VoIP and IP-enabled voice providers and that its business model is consistent with applicable Commission guidelines. Millicorp also reasserted that the inmate call blocking activities of inmate calling service (“ICS”) providers are in violation of longstanding Commission precedent interpreting Section 201(a)-(b) of the Communications Act of 1934, as amended,<sup>2</sup> to require common carriers to obtain prior Commission consent to block calls.<sup>3</sup>

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<sup>1</sup> 47 C.F.R. §§ 1.1206(a)(3), (b)(1)-(2).

<sup>2</sup> 47 U.S.C. § 201(a)-(b).

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Further, Millicorp reviewed with the Commission attendees its prior rebuttals of security concerns raised by Securus Technologies, Inc. (“Securus”) in this docket.<sup>4</sup>

In its meeting with Office of General Counsel and Wireline Competition Bureau representatives, Millicorp also discussed the Commission’s jurisdiction to take action in response to the Securus Petition for Declaratory Ruling, including the scope of the Commission’s jurisdiction with respect to prison facilities and the ICS providers that operate inmate calling platforms. Millicorp expressed support for Securus’ position that “the Commission has the jurisdiction to rule on the question [of] whether inmate phones, which are regulated as payphones under federal law, may block call diversion schemes.”<sup>5</sup>

With respect to concerns expressed by Securus regarding Securus’ ability to determine the identity of inmate call recipients, Millicorp explained that the Federal Bureau of Prisons (“FBOP”) does not block federal inmate calls to Millicorp’s customers provided that the identity and address of the call recipient is available through a reverse directory using the telephone number of the call recipient.<sup>6</sup> To ensure that the FBOP has access to such information about Millicorp’s customers, Millicorp directly submits its customers’ identity and location information on a daily basis to the National Directory Assistance (“NDA”) database administered by LSSi Corp. (“LSSi”).<sup>7</sup> As a result, the FBOP permits inmates to call Millicorp’s customers because the FBOP is able to determine the identity and location of the inmates’ call recipients via the NDA or one of the numerous reverse directory databases that rely on the NDA.

Millicorp further explained that Securus’ insistence on the use of a Line Information Database (“LIDB”) to determine the identity and location of a call recipient is misplaced and

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<sup>3</sup> See *Ex Parte* Letter from Phil Marchesiello, Wilkinson Barker Knauer, LLP, counsel for Millicorp, to Marlene H. Dortch, Secretary, FCC, at 3-5 (filed March 9, 2012) (“March 9 Millicorp Letter”); *Ex Parte* letter from Phil Marchesiello, Wilkinson Barker Knauer, LLP, counsel for Millicorp, to Marlene H. Dortch, Secretary, FCC, at 7-10 (filed June 17, 2011) (“June 17 Millicorp Letter”).

<sup>4</sup> See March 9 Millicorp Letter, at 5-6; *Ex Parte* letter from Phil Marchesiello, Wilkinson Barker Knauer, LLP, counsel for Millicorp, to Marlene H. Dortch, Secretary, FCC, at 1-2 (filed October 14, 2011) (“Oct. 14 Millicorp Letter”); June 17 Millicorp Letter, at 10-19; *Ex Parte* letter from Phil Marchesiello, Wilkinson Barker Knauer, LLP, counsel for Millicorp, to Marlene H. Dortch, Secretary, FCC, Attachment at 13 (filed June 14, 2011).

<sup>5</sup> See Letter from Stephanie A. Joyce, counsel for Securus, to Marlene H. Dortch, Secretary, FCC, at 2 (filed June 22, 2012) (“June 22 Securus Letter”).

<sup>6</sup> See also Oct. 14 Millicorp Letter at 1-2; June 17 Millicorp Letter at 17.

<sup>7</sup> According to LSSi, it is a Tier 1 supplier of data to “the vast majority of carriers in North America” and the NDA is the “primary resource for 411 Directory Assistance.” See June 17 Millicorp Letter, at 15 & n.44.

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self-serving. Like the FBOP, Securus could obtain access to this information through LSSI's NDA or one of the numerous carrier or law enforcement databases that rely on the NDA. Although Securus characterizes LIDB as an "industry-standard database,"<sup>8</sup> LIDB, in fact, is the term used to describe numerous databases that are administered by individual carriers nationwide primarily for intercarrier call validation and billing purposes. These LIDB's contain end-user information. However, such end-user information is not required to be uploaded to LIDB's by carriers with respect to their telephone numbers and many times is not, especially with respect to telephone numbers provided by the carriers to non-carrier entities such as VoIP providers.

Just as LSSI administers the NDA, certain private entities, such as Transaction Network Services, Inc. and Syniverse Technologies, Inc., offer carriers and non-carrier entities access to an aggregated LIDB comprised of the individual LIDB's of numerous carriers. Millicorp has the ability to contract with one of these LIDB aggregators to upload its customer information into their LIDB's. However, because the primary purpose of LIDB's is intercarrier call validation and billing, Millicorp would be required to expressly identify itself in the LIDB as the service provider of each of its customers through the use of a proxy OCN assigned to Millicorp. In turn, this would enable Securus and other ICS providers effortlessly to identify all of Millicorp's customers and block all inmate calls to the customers. Thus, by uploading all of its customer information to a LIDB as requested by Securus, Millicorp effectively would facilitate and perfect Securus' continued efforts to block all inmate calls to Millicorp's customers. (By contrast, LSSI's NDA does not require carrier information to be included as part of LSSI's end-user directory and therefore does not pose the same risk to Millicorp.) However, if the Commission was to issue a decision in this proceeding prohibiting ICS providers to block inmate calls to call recipients whose identities and addresses are available in a LIDB, Millicorp would be glad to promptly arrange for the insertion of identity and location information for all of its customers in a prominent, aggregated LIDB.

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<sup>8</sup> June 22 Securus Letter, Attachment.

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Please direct any questions regarding the foregoing to the undersigned.

Respectfully,

/s/ Phil Marchesiello

Phil Marchesiello

*Counsel to Millicorp*

cc (all via electronic mail):

Angela Kronenberg

Pamela Arluk

Diane Griffin Holland

Marcus Maher

Raelynn Remy

Sean Lev

Attachment

## **DECLARATION**

I, Duane Dyar, Vice President of Operations of Millicorp, hereby declare, under penalty of perjury, that I have reviewed the foregoing letter and that the information contained therein is true and accurate to the best of my knowledge, information and belief.

Signed and dated this 17<sup>th</sup> day of July 2012.

/s/ Duane Dyar  
Duane Dyar  
Vice President of Operations,  
Millicorp

# Millicorp

## *ConsCallHome.com (CCH)*



Presentation to the  
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## ConsCallHome.com

- Subscription IP-enabled telephone service marketed to the friends and family members of inmates
- Telephone numbers local to prison facilities assigned to CCH subscribers
- Inmates call CCH-assigned local telephone numbers to reach CCH subscribers without incurring exorbitant long-distance charges
- Calls terminated to CCH subscribers by Millicorp using standard VoIP technology
- All calls by inmates to CCH subscribers are originated by inmates over existing prison phone platforms and subject to all security functions of such platforms
- CCH does not provide services to inmates or prison facilities



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# VoIP services targeting recipients of frequent inmate calls, such as CCH, are consistent with the FCC's rules

- The FCC permits VoIP providers to offer their customers telephone numbers that are local to any geographic area
  - “Your VoIP provider may permit you to select an area code for your VoIP service that is different from the area code in which you live.”  
Voice Over Internet Protocol (VoIP) FCC Consumer Facts, at 2.
- The FCC prohibits carriers from imposing long-distance charges based on the location of the call recipient rather than the area code assigned to the call recipient
  - “Calls within your VoIP area code may not be billed as long distance calls. People calling your VoIP area code from another area code, however, may incur long distance charges. ”  
Voice Over Internet Protocol (VoIP) FCC Consumer Facts, at 2.



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## **Millicorp's efforts to prevent call blocking**

- **Millicorp filed a complaint with the Enforcement Bureau about call blocking by inmate calling services (ICS) providers on July 15, 2009**
- **Millicorp filed a lawsuit in October 2009 in Florida federal court claiming violations of Section 201 of the Communications Act, commercial torts, and violation of state consumer protection laws**

**Millicorp is seeking FCC action in this proceeding to establish regulatory certainty**



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# Blocking of inmate calls to CCH subscribers by ICS providers is a violation of the Communications Act

- **Call blocking is a violation of Section 201(b)**
  - “All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful . . .”
- **Call blocking is a violation of Section 201(a)**
  - “[I]t shall be the duty of every common carrier ... to furnish such communication service upon reasonable request thereof.”



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## Blocking of inmate calls to CCH subscribers by ICS providers is a violation of longstanding FCC policy

- “Because the ubiquity and reliability of the nation's telecommunications network is of paramount importance to the explicit goals of the Communications Act of 1934, as amended, . . . we reiterate here that Commission precedent does not permit unreasonable call blocking by carriers.”
- “[W]e reiterate here that Commission precedent does not permit unreasonable call blocking by carriers. . . . We find that carriers . . . may not engage in self help actions such as call blocking.”
- “[T]he Commission previously has found that call blocking is an unjust and unreasonable practice under section 201(b) of the Act. Specifically, Commission precedent provides that no carriers . . . may block, choke, reduce or restrict traffic in any way.”

*Establishing Just and Reasonable Rates for Local Exchange Carriers, Call Blocking by Carriers, Declaratory Ruling and Order, 22 FCC Rcd 11629, ¶¶ 1, 5-6 (WCB 2007).*



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# Blocking of inmate calls to CCH subscribers by ICS providers is a violation of longstanding FCC policy

- “We decline to adopt any remedy that would condone, let alone expressly permit, call blocking. The Commission has a longstanding prohibition on call blocking. In the *2007 Call Blocking Order*, the Wireline Competition Bureau emphasized that ‘the ubiquity and reliability of the nation’s telecommunications network is of paramount importance to the explicit goals of the Communications Act of 1934, as amended’ and that ‘Commission precedent provides that no carriers, including interexchange carriers, may block, choke, reduce or restrict traffic in any way.’ We find no reason to depart from this conclusion. We continue to believe that call blocking has the potential to degrade the reliability of the nation’s telecommunications network.”

*Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶ 734 (2011).



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## Blocking of inmate calls to CCH subscribers by ICS providers is a violation of longstanding FCC policy

- “[W]e remind carriers of the Commission’s longstanding prohibition on carriers blocking, choking, reducing or otherwise restricting traffic.”
- “[C]arriers are directly bound by the general prohibition on call blocking with respect to VoIP-PSTN traffic, as with other traffic.”
- “[P]ractices such as those described herein that lead to call termination ... may constitute unjust and unreasonable practices in violation of section 201 of Communications Act of 1934, ... and/or may violate a carrier’s section 202 duty to refrain from unjust or unreasonable discrimination in practices, facilities, or services.”

*Developing an Unified Intercarrier Compensation Regime, Declaratory Ruling, 27 FCC Rcd 1351, ¶¶ 3-4, 10 (WCB 2012).*



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# The FCC has never expressly or implicitly permitted ICS providers to block inmate calls to VoIP services

- The FCC has authorized ICS providers to block only two types of inmate calls: (i) dial-around calls and (ii) calls to operator service providers
- VoIP was not a mainstream commercial service when the FCC authorized this limited call blocking by ICS providers, which demonstrates that the FCC could not have intended its prior grant of inmate call blocking authority to extend to VoIP
- The filing of a Petition for Declaratory Ruling by Securus is an acknowledgement that the inmate call blocking activities of ICS providers has not been authorized by the FCC



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## Dial-Around/Operator Service Provider Calls



## Calls to CCH Subscribers



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## **A determination by the FCC that ICS providers are permitted to block calls to VoIP providers . . .**

- would prevent state and local inmates from communicating by phone with customers of Vonage, Google Voice, and the VoIP customers of LECs and cable providers**
  - The FCC estimates that in June 2011 there were 34 million interconnected VoIP subscribers, which represented 20% of all retail switched access lines
- would represent FCC precedent condoning carrier discrimination against VoIP providers**
- would deprive the friends and families of inmates of the opportunity to choose their own communications providers and benefit from the cost-savings and enhanced functionality of VoIP services**



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## ICS providers' security arguments are untenable

- FCC authority for inmate call blocking is intended to prevent unwanted calls to judges, witnesses, prosecutors, etc. By contrast, all CCH subscribers desire to receive inmate calls
- All inmate calls still routed through secure ICS call platform and ICS providers receive compensation for all inmate calls to CCH subscribers
- CCH telephone numbers and the names and addresses of CCH subscribers are available in reverse directories and Millicorp actively cooperates with law enforcement when requested
- ICS providers currently often cannot identify inmate call recipients and often do not know who the number called by an inmate is assigned to or where the call recipient is located
- ICS providers only focus on local calls and do not address alleged security concerns with respect to long-distance calls



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## Securus assertions are inaccurate

- CCH is not an “illegitimate” company or a “call diversion scheme” and does not practice “call forwarding”
- CCH does not provide its customers with “false local numbers”
- Federal Bureau of Prisons
- CCH is not an ICS provider and therefore has no need for a contract with prison facilities
- CCH does not “enable inmates to complete calls to prohibited numbers”
- LIDB vs LSSi



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# The FCC should deny the Securus Petition

- ICS Providers should not have unfettered discretion to unilaterally block inmate calls when doing so is in their financial interest
- ICS providers should be prohibited from discriminating against VoIP services marketed to the friends and families of inmates
- The FCC should clarify that existing inmate call blocking exemptions do not permit blocking of inmate calls to VoIP subscribers
- If the FCC determines additional call blocking prohibition exceptions are warranted, the FCC should adopt uniform bright line rules



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